



ADJUTANT GENERAL'S DEPARTMENT

Post Office Box 5218
Austin, Texas 78763-5218
512-465-5001

October 30, 1991

Adjutant General

Dan Morales
Attorney General of Texas
Supreme Court Building

Dear General Morales:

A Texas National Guard member who attends the University of Texas at Austin is paying resident tuition and other fees and charges pursuant to Section 54.058(b) of the Texas Education Code. He has been advised, however, that his application to attend a state-supported medical school will be treated as a nonresident application for purposes of the enrollment limitation established by Article III, Section 15, of the Appropriations Act.

I ask your opinion on the following:

1. Does Section 54.058(b) of the Texas Education Code operate to grant resident status to members of the Texas National Guard for purposes of the cited enrollment limitation?

2. If not, is one who serves as a "traditional" member of the Texas National Guard (i.e., not on full-time duty) "gainfully employed" as that term is used in Section 54.052(e) of the Texas Education Code, without a showing of further employment? If so, does resident status as determined by that section qualify one as a Texas resident for purposes of the cited enrollment limitation?

Should you require further information, please contact our State Judge Advocate General, Colonel Jack L. Slayton, at 465-5057. We will await your advice in the matter.

Sincerely,

William C. Wilson

William C. Wilson
Major General, Texas Army
National Guard
Adjutant General